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500.36668VX1 | E4192-07EK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Akamatsu et al.

Serial No.: 10/020,989

Filed: 19 December 2001

For: METHOD OF USING AV DEVICES AND AV DEVICE SYSTEM

Art Unit: 2621

Examiner: Mishawn N. Dunn

Confirm No: 1873

**RESPONSE**

Commissioner for Patents  
POB 1450  
Alexandria, Virginia 22313-1450

31 August 2006

Sir:

In response to the 31 July 2006 Office Action, the following is respectfully submitted in connection with the above-identified application.

**RESTRICTION/ELECTION REQUIREMENT - TRAVERSED**

A restriction/election requirement has been made for the reasons beginning on page 2 of the Office Action. Applicant respectfully traverses based upon the following ground(s).

**NO PATENTABLY DISTINCT DETERMINATION**

MPEP 806.04(h), Eighth Edition, August 2001, page 800-41 to 800-42, requires the Examiner to make and provide a determination, which the Examiner has not made,

that the alleged Species are patentably distinct from each other. Specifically, MPEP 806.04(h) provides in pertinent part as follows:

In a national application containing claims directed to more than a reasonable number of species, the examiner should not require restriction to a reasonable number of species unless he or she is satisfied that he or she would be prepared to allow claims to each of the claimed species over the parent case, if presented in a divisional application filed according to the requirement. Restriction should not be required if the species claimed are considered clearly unpatentable over each other.

In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other, with the statement that restriction as between those species is not required.

In the present situation, the Examiner has not provided any factual determination as to how each one of the identified species is patentable over each other one of the identified species. Rather, the Examiner simply states a naked form blurb that he considers the six alleged species to represent patentably distinct species of the present invention. Therefore, should the Examiner decide to maintain the requirement for an election of species, Applicants respectfully request that the Examiner specifically set forth on the record separate determinations of patentability with respect to the species in order for the requirement for an election of species to be proper as discussed above.

### **PROVISIONAL ELECTION**

In order to comply with the requirement, Applicant provisionally elects, with traverse, for prosecution on the merits, the Fifth Species, Figs. 47(a-c) - 56(a-b), including at least claims 25-62.

It is respectfully noted that despite election of the Fifth Species, at least the Fifth and Sixth species fall within the same species, since both of such species are based on a data structure of CURRENT TIME/MASTER TIME ACQUISITION FUNCTION (e.g., see Figs. 55a, 56a, 61a and 62a. Reconsideration and melding of the Fifth and Sixth species together, are respectfully requested.

### **NO ADMISSION - RESTRICTION/ELECTION**

Applicant submits that the instant response (including the comments submitted and the provisional election) is not an admission on the record that the respective species are separately distinct species and/or obvious variants.

### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

## **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

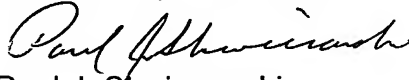
## **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (referencing case No. 500.36668VX1) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,



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